

SALES AND USE TAX REVIEW COMMISSION

RECOMMENDATION PURSUANT TO P.L. 1999, C.416

BILL NUMBER: A-3975

**DATE OF
INTRODUCTION:** May 2, 2005

SPONSOR: Kean

**DATE OF
RECOMMENDATION:** July 27, 2005

IDENTICAL BILL:

COMMITTEE: Assembly Health and Human Services

DESCRIPTION:

Prohibits smoking in indoor public places and workplaces.

Provides for a 50% reduction in the sales tax rate for the first 36 months following the effective date, on receipts for sales of food and drink by restaurants or bars with certain liquor licenses.

ANALYSIS:

This bill uses a sales tax benefit as an inducement or reward for certain businesses' expected compliance with a beneficial health law that might initially meet with their resistance. In doing so, it seems to use tax law as a social and political policy tool to compensate certain businesses for having to change their policies regarding smoking and to buy their support for a public health reform. The Commission does not favor the use of sales tax law as a means of promoting desirable behavior or penalizing undesirable behavior, and instead supports the use of sales tax as a neutral means of simply raising revenue.

Even if the Commission were to support the use of sales tax law as a tool of social or health reform, it notes that the temporary 50% tax reduction is unlikely to have a significant effect on the volume of patronage of bars and other liquor license holders. Former patrons repelled by the smoking ban are unlikely to be lured by the prospect of a small savings in sales tax.

In addition, the Commission notes that it may be inequitable to grant such a tax reduction to liquor license holders, in an apparent attempt to boost their business during the initial period of compliance with the smoking ban, while not granting a similar benefit to restaurants without liquor licenses, many of which are also patronized by smokers who will be affected by the ban.

RECOMMENDATION: Oppose

COMMISSION MEMBERS FOR PROPOSAL: 0

COMMISSION MEMBERS AGAINST PROPOSAL: 5

COMMISSION MEMBERS ABSTAINING: 0

COMMISSION MEETING DATE: July 27, 2005